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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 81 6818

EDWARD D. CHRISTENSEN, Appellant,

v.

STATE OF UTAH, Appellees.

ON APPEAL FROM THE

SUPREME COURT OF THE STATE OF UTAH

JURISDICTIONAL STATEMENT

EDWARD D. CHRISTENSEN
Attorney Pro Se
387 North 300 East
Richfield, Utah 84701

Dated May 24, 1982

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. _____

EDWARD D. CHRISTENSEN, Appellant,

v.

STATE OF UTAH, Appellees.

ON APPEAL FROM THE

SUPREME COURT OF THE STATE OF UTAH

JURISDICTIONAL STATEMENT

The Appellant appeals from the opinion and judgment of the Supreme Court of Utah entered on December 29, 1981 affirming the conviction of the Appellant, and submits this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that substantial questions are presented.

OPINION BELOW

The opinion and judgment of the Supreme Court of Utah was filed on December 29, 1981 and a copy is attached hereto as Appendix A. The judgments of the trial court and the District (appeals) court are appended as Appendix B and C, the order denying rehearing is appended as Appendix D

JURISDICTION

This is a criminal proceeding brought against the Appellant by the State of Utah under Utah Code Annotated, 1953 Sec. 41-6-158. It is brought to this court on Constitutional grounds. The date of the of the judgment of the Supreme Court of Utah is December 29, 1981, rehearing was denied on March 2, 1982 and Notice of Appeal was filed on March 23, 1982 in the Supreme Court of Utah. Jurisdiction to review decisions of the highest court of a state, by appeal, is confered on this court by 28 U.S.C. 1257 (2). The following cases sustain the jurisdiction of the Supreme Court to review this case on appeal: Williams v. Bruffy, 96 U.S. 176, 183; Largent v. Texas, 318 U.S. 418; Lawrence v. State Tax Commission, 286 U.S. 276, 283-3; Dahnke-Walker Mining Co. v. Bondurant

257 U.S. 282; Bantam Books, inc. v. Sullivan 372 U.S. 58, 61, n. 3.

QUESTIONS PRESENTED

Whether a state can lawfully prosecute its own citizens for an act which it does not prosecute nonresidents, under the provisions of the Equal Protection of the Law clause of the Constitution of the United States,(Fourteenth Amendment)?

Did the Appellant receive equal protection of the law in the courts of Utah?

Did the Appellant have a fair and impartial trial?

Did the Courts of Utah follow due process of law in depriving the Appellant of his property (fine)?

Is Utah Code Annotated, 1953, Sec. 41-6-158 repugnant to the Utah or Federal Constitutions in its administration?

Has any Federal or State Constitutional guarentees been violated?

STATUTES INVOLVED

Utah Code Annotated, 1953, Sec. 41-6-158 is appended as Appendix E.

STATEMENT

The Appellant was cited under U.C.A., 1953, 41-6-158 for driving a well maintained Mercedes Benz vehicle, registered in Utah, on the highways of Utah without a valid Utah Safety inspection sticker dispalyed. Utah is surrounded by states having no safety inspection sticker requirements including Idaho, Wyoming, Colorado, New Mexico, Arizona, Nevada, California, Washington, Montana and probably others. The citizens of these states are privileged to drive their vehicles upon the highways of Utah without being cited for that act. The Appellantn having studied the U. S. Constitution, Utah Constitution and a book on the Analysis and Interpretation of the U. S. Constitution contends that this discriminatory enforcement of the Utah statute is repugnant to both the Utah and Federal Constitutions with respect to equal protection of the laws, equal privileges and uniform operation of laws. The Appellant further contends that he did not have a fair and impartial trial in that the jury was not permitted to hear his arguments and were improperly instructed

and that he was deprived of his property without due process of law because the courts disregarded his arguments and citations.

The Appellant believes, and the record shows, that there was a conspiracy between the prosecuting attorneys and the courts to defeat any attack on the Utah statute in the following ways:

1. Sending the jury out of the court so that they could not hear the issues of law.
2. Instructing the jury "it is the duty of the court to instruct you on what the law is, and it is your duty to follow the law, no matter what you think it is or ought to be."
3. Giving the jury only the law which would cause them to convict and purposely omitting Article IV, Sec. 2, Amendments 4 and 14 of the U.S. Constitution and Article 1, Sections 14 and 24 of the Utah Constitution which are also the law and superior to case law which the courts relied on.
4. The District (appeals) court omitting all specific mention of the above law in its conclusions of law.
5. The Supreme Court of Utah disregarding Article IV, Sec. 2, and this Courts opinions in United States v. Raines 362 U.S. 17, 25 (1960) and Cf Hillsborough v. Cromwell, 326 U.S. 620 (1946) in its opinion and judgment.

The Appellant relies of the following to prove absence of guilt and false conviction in this case.

1. Article IV, Sec 2 U.S. Constitution.
"The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." (first argued in trial court) disregarded.

2. Amendment 14, Par 2 U.S. Constitution
"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." (first argued in trial court) disregarded.

3. Amendment 4 U.S. Constitution
"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the persons or things to be seized." (first argued in trial court) disregarded.

4. Constitution of Utah, Article 1, Sec. 14.
(same as Fourth Amendment, U.S. Constitution)

5. Constitution of Utah, Article 1, Sec. 24.
(Uniform operation of laws)
"All laws of a general nature shall have uniform operation."

6. Article VI, Par. 2 U.S. Constitution.
"This Constitution and the laws of the United States which shall be made in pursuance thereof; ... shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding."
(first argued in memorandum, Motion for Summary Reversal) disregarded.

7. Marbury v. Madison, 5 U.S. 13 (1803)
"All laws which are repugnant to the Constitution are null and void." (first argued in trial court) disregarded.

8. Cf., Hillsborough v. Cromwell, 326 U.S. 620 (1946)
"Persons "within its jurisdiction" are entitled to equal protection from a state. Largely because Article IV, Section 2, has from the beginning guarenteed the privileges and immunities of citizens in the several states, the Court has never construed the phrase in relation to natural persons." (first argued in Petition for Rehearing) disregarded, Petition denied.

9. United States v. Raines, 362 U.S. 17, 25 (1960)
"Certainly, when a state through its legislature commands a discriminatory result, that is state action condemned by the first section of the Fourteenth Amendment and the statute is void." (first argued in Reply Brief Dec. 17, 1981) disregarded in Utah Supreme Court decision.

10. Miranda v. State of Arizona, 348 U.S. 436, Key 73
"Where rights secured by Constitution are involved, there can be no rule-making or legislation which would abrogate them." (first argued in trial court) disregarded.

11. Richer v. East St. Louis & S. Ry Co., DC Mo. 20 F. 2d 220.
"Nor does it give to citizens of another state greater privileges in a particular state than those enjoyed by its own citizens." (first argued in trial court) disregarded.

12. Miller v. U.S. 230 F 486 at 489
"The claim and exercise of a constitutional right cannot be converted into a crime." (first argued in trial court, again in Docketing Statement) disregarded.

13. Paley v. Bank of America Nat. Trust and Savings Asso. (2d Dist) 159 Cal. App 2d 500; 324 P 2d 35.
"The presumption of constitutionality of a statute may be overcome by showing that the statute operates to deprive one of property without due process of law, or that any of the guarantees of the Constitution have been violated." (first cited in Motion for Summary Reversal) disregarded.

14. Horning v. District of Columbia, 254 U.S. 135, 138.
"The jury has the power to bring in a verdict in the teeth of both law and fact." (first argued in District (appeals) court) rejected in Conclusions of law #4.

15. United States v. Moylan, 417 F 2d 1002 at 1006.
" If the jury feels that the law under which the defendant is accused is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic or passion, the jury has the power to acquit, and the

court must abide by that decision."

16. United States v. Moylan 417 F. 2d 1002 at 1005
"Furthermore, the argument runs, the jury's power to acquit where the law may dictate otherwise is a fundamental necessity of a democratic system. Only in this way, it is said, can a man's actions be judged fairly by society speeking through the jury, or a law which is considered too harsh be mitigated."

17. Nelson v. State, 32 Tenn (2 Swan) 482 (Tenn 1852)
"On trial for murder, the court charged the jury, "That the jury are not only judges in the fact of the case, but they are judges of the law. The court is a witness to them as to what the law is. After the court has stated the law to them, then, if they believe it to be different, they can disregard the opinion of the court. If the jury err in favor of the defendant, their judgement is final, and cannot be reversed by the Supreme Court." Held, there was no error in so charging a jury in a criminal case."

18. 16 Am Jur 2d Sec. 155. As imposing obligatory duty.
" Since the Constitution is intended for the observance of the judiciary as well as the other departments of government and the judges are sworn to support its provisions, the Courts are not at liberty to overlook or disregard its commands, or countenance evasion thereof. It is their duty in authorized proceedings to give effect to the existing constitution and to obey all constitutional provisions, irrespective of their opinion as to the wisdom or desirability of such provisions, and irrespective of the consequences.
If the constitution prescribes one rule and the statute another and different rule, it is the duty of the courts to declare that the constitution, and not the statute, governs in cases before them for judgement." (first cited in Reply Brief Feb. 22, 1982) disregarded in Utah Supreme Court decision.

19. Justice Hugo Black in Columbia University's Charpentier Lectures (1968)
" The public welfare demands that constitutional cases must be decided according to the terms of our Constitution itself, and not according to judged' views of fairness, reasonableness, or justice. I have no fear if constitutional amendments properly adopted, but I do fear the rewriting of the Constitution by judges under the guise of interpretation." (first cited in Reply Brief Feb 22, 1982.) disregarded in Utah Supreme Court opinion.

20. Houston County v. Martin, 332 Al 511; 196 So. 13.
" Constitutions are not primarily to protect majorities, who are usually able to protect themselves, but rather to preserve and protect the rights of individuals and minorities against arbitrary actions of those in authority."

21. Terry v. Ohio, 392 U.S., at 39 (1967)
"There have been powerful hydrolic pressures throughout our history that bear heavily on the courts to water down constitutional guarentees and give the police the upper hand. That hydrolic pressure has probably never been greater than it is today. Yet if the individual is no longer to be sovereign, if the police can pick him up whenever they do not like the cut of his jib, if they can "seize" and "search" him in their discretion, we enter a new regime. The decision to enter it should be made only after a full debate by the people of this country.

The Appellant need not say on word in his behalf, the courts and the Constitutions have said it for him. The Appellant asks that this Court follow its own precedents by ruling that the Utah statute involved is not uniform in its operation as required by Article 1, Sec. 24 of the Utah Constitution, that it is state legislation which commands a discriminatory result which is condemned by the first section of the Fourteenth Amendment and that the statute is null and void, according to United States v. Raines (supra), that all persons "within Utah jurisdiction" are entitled to equal protection from the state because Article IV, Section 2 has from the beginning guaranteed equal protection of the laws to Utah citizens, according to Cf. Millsborough v. Cromwell (supra), that the jury is entitled to hear the law argued and bring in a verdict in the teeth of both law and fact and to speak for society instead of only for government, according to Horning v. District of Columbia and United States v. Moylan (supra), and that the Appellants claim and exercise of the right of equal protection of the law cannot be converted into a crime, according to Miller v. U.S. (supra)

THE QUESTIONS ARE SUBSTANTIAL

An honorable decision is needed from this Court to restore the citizens of Utah to first class citizens with all privileges and immunities of citizens in the several states and to the protection of their own state Constitution and the U. S. Constitution. And to establish the supremacy of Constitutions over statutes, and that courts are not at liberty to disregard constitutional commands in favor of statutes or their own opinions of fairness, reasonableness or justice and that these principles are required by due process of law, and to establish what a fair and impartial trial is. The Appellant believes that the questions presented are substantial and are of public importance.

Respectfully submitted,

Edward D. Christensen

Edward D. Christensen
Appellant Pro Se

IN THE SUPREME COURT OF THE STATE OF UTAH

-----ooOoo-----

State of Utah,
Plaintiff and Respondent,

v.

Edward D. Christensen,
Defendant and Appellant.

No. 17791

F I L E D
December 29, 1981

Geoffrey J. Butler, Clerk

PER CURIAM:

This case originated in a justice of the peace court where defendant was convicted by a jury of the traffic offense of failing to display an inspection sticker on his car.[1] On appeal to the district court, he was again convicted.

He attacked the constitutionality of the statute which authorizes the appeal to this Court under Article VIII, §9 of the Utah Constitution.

Defendant appeals without the assistance of legal counsel and presents a very articulate argument reflecting considerable perception of the basic concepts of our state and federal constitutions. In so doing, defendant urges that the statute is discriminatory, in that it has the practical effect of punishing Utah residents, while immunizing sister state transient motorists from like penalty.

Defendant relies upon the Fourth and Fourteenth Amendments of the federal Constitution. He also points to the landmark decision of Marbury v. Madison[2] which stands for ultimate superiority of the Constitution over offending statutes.

Defendant is fair and candid in conceding that the State, his opponent here, insists on using the police power as a shield against his attack. His citation of Richter v. East St. Louis and S. Ry. Co.,[3] to the effect that residents and non-residents enjoy constitutional equality does not destroy the superiority of police power concepts.

Statutes like that involved here, uniformly have been held constitutional, with rare interference by the Fourth and Fourteenth Amendment. A case that arose in Illinois briefly and aptly states as follows:

---

1. In violation of U.C.A., 1953, 41-6-158.
2. 5 U.S. 13 (1803).
3. 20 F.2d 220 (Mo. Dist. Ct. 1927).

APPENDIX A

IN THE JUSTICE'S COURT

PIUTA COUNTY PRECINCT, PIUTA COUNTY, STATE OF UTAH

STATE OF UTAH,	:	JUDGMENT
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
EDWARD D. CHRISTENSEN	:	
	:	Case No. 94-30-250
Defendant.	:	

The Defendant Edward D. Christenson having been found guilty by a jury, and having waived time for pronouncement of sentence,

IT IS THEREFORE ORDERED that the Defendant Edward D. Christenson be and he HEREBY is sentenced to a term of six months in jail and is fined in the sum of $100.00.

IT IS FURTHER ORDERED thatthe jail sentence be suspended if the fine is paid within 10 days from the date hereof.

Dated this 2nd day of March, 1931.

S. E. Dalton

S. E. Dalton
Justice of the Peace

APPENDIX B

K. L. McIFF, DEPUTY
PIUTE COUNTY ATTORNEY
Attorneys for Plaintiff
151 North Main Street
Richfield, Utah 84701
Telephone: 896-5441

IN THE SIXTH JUDICIAL DISTRICT COURT OF PIUTE COUNTY

STATE OF UTAH

STATE OF UTAH, Plaintiff, vs. EDWARD D. CHRISTENSEN, Defendant.	:	RECITAL, FINDINGS, CONCLUSIONS AND JUDGMENT Case No. _____

This matter came before the Court at its regular law and motion day on Thursday, May 7, 1981; the State appearing through its attorney K. L. McIff, and the Defendant appearing pro se; the Court proceeded to hear the matters and enter the findings and ruling hereinafter set forth, to-wit:

RECITAL

1. The Defendant presented to the Court a motion to dismiss claiming that the Utah motor vehicle inspection law is unconstitutional, and that the Utah government exceeded its authority by making and enforcing an unconstitutional statute. The motion to dismiss was denied.

2. The Defendant presented a motion for change of venue. In light of other rulings, the motion became moot and, accordingly, was denied.

3. The Defendant moved the Court for a jury trial wherein he would be allowed to submit to the jury not only questions of fact, but also questions of law. The motion was denied.

4. The Court inquired as to a trial by jury on the factual issues and, after discussion between the Defendant and counsel for the State, it was represented to the Court that there were no factual disputes and a stiuplation of the

facts was then entered in the record.

5. The stipulated facts are that on or about December 14, 1980, at or near Marysvale, County of Piute, State of Utah, the Defendant Edward D. Christensen drove a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker.

6. The parties requested that the Court make its findings and enter judgment based on the stipulated facts so that, if Defendant so elected, he could file an appeal to the Utah Supreme Court on the legal issues which he had raised.

FINDINGS OF FACT

The Defendant Edward D. Christensen, on or about December 14, 1980, at or near Marysvale, Piute County, State of Utah, drove a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker.

CONCLUSIONS OF LAW

1. The Defendant is guilty of the offense of driving a motor vehicle upon a highway in the State of Utah without displaying a valid safety inspection sticker, contrary to §41-6-158 Utah Code Annotated 1953.

2. The statute in question does not violate the provisions of the Utah Constitution nor the Constitution of the United States.

3. The legislature of the State of Utah did not exceed its authority in adopting the requirement that motor vehicles be inspected periodically and display valid safety inspection stickers.

4. The Defendant is entitled to a trial by jury on all factual disputes, but is not entitled to have a jury rule on the constitutionality of the law in question or other issues of law which are properly the province of the Court.

5. The Defendant is entitled to appeal his conviction to the Supreme Court of the State of Utah, and to have such Court consider the rulings of this Court on the legal issues raised.

JUDGMENT

The Defendant Edward D. Christensen, having been found guilty by the instant Court upon stipulated facts, and having requested imposition of sentence,

IT IS THEREFORE ORDERED that the Defendant Edward D. Christensen be, and he hereby is, sentenced to a term of six months in jail and is fined in the sum of $100.00, the imposition of the jail sentence, however, being suspended, and the Defendant being placed on probation for a period of six months.

IT IS FURTHER ORDERED that execution of the instant sentence is suspended for a period of thirty days for the purpose of allowing Defendant to file an appeal should he so elect.

DATED this 15th day of May, 1981.

DISTRICT COURT JUDGE

AFFIDAVIT OF MAILING

I hereby certify that a full, true and correct copy of the above and foregoing RECITAL, FINDINGS, CONCLUSIONS AND JUDGMENT was placed in the United States mail at Richfield, Utah, with first-class postage thereon fully prepaid on the 20th day of May, 1981, addressed as follows:

Mr. Edward D. Christensen
387 North 300 East
Richfield, Utah 84701

SUPREME COURT OF UTAH
STATE OF UTAH
SALT LAKE CITY, UTAH

OFFICE OF THE CLERK

March 2, 1982

EDWARD D. CHRISTENSEN
387 NORTH 300 EAST
RICHFIELD, UTAH 84701

State of Utah,
Plaintiff and Respondent,
v.
Edward D. Christensen,
Defendant and Appellant.

No. 17791

This day petition for rehearing denied.

Geoffrey J. Butler, Clerk

cc: David L. Wilkinson
Robert N. Parrish

APPENDIX D

41-6-158 Periodic inspectiin required-display of inspection sticker required.-

(a) The department shall at least once each year require that every motor vehicle registered in this state or bearing temporary permits or Utah plates, except off-highway vehicles, be inspected and that an official certificate of inspection and approval be obtained for each such vehicle. Nothing in this subsection shall be construed to prevent any owner or lessee of a motor vehicle from voluntarily causing the official certificate of inspection number to coincide with the date of registration of such vehicle.

The inspection shall be made and the certificate obtained with respect to the mechanism, brakes and equiptment of every vehicle designated by the department under this subsection. The department may establish necessary rules and regulations for the administration and enforcement of this section and may designate any period or periods of time during wich an owner of any vehicle subject to this section shall display upon the vehicle a certificate of inspection and approval duly issued for the vehicle either upon the lower right-hand corner of the windshield thereof when required or upon the vehicle in such position as to be visible from the outside.

(b) The department may authorize the acceptance in this state of a certificate of inspection and approval issued in another state and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

(c) It shall be unlawful for any person to drive a motor vehicle registered in this state upon any street or highway without displaying the safety inspection sticker during the time designated by the department.

IN THE SUPREME COURT OF THE STATE OF UTAH

EDWARD D. CHRISTENSEN, Appellant, V. STATE OF UTAH, Appellee.	No. 17791

NOTICE OF APPEAL TO THE SUPREME COURT
OF THE UNITED STATES

Notice is hereby given that EDWARD D. CHRISTENSEN, the appellant above-named, hereby appeals to the Supreme Court of the United States from the final order of the Supreme Court of the State of Utah, affirming the judgement of conviction, entered herein on March 2, 1982.

This appeal is taken pursuant to 28 U.S.C. Sec. 1257 (2).

Edward D. Christensen
Appellant Pro Se

AFFIDAVIT OF MAILING

I hereby certify that I mailed a true and exact copy of the foregoing Notice of Appeal to the Supreme Court of the United States to the Attorney General of Utah, 236 State Capitol, Salt Lake City, Utah 84114 on March 23, 1982, and that the original was mailed to the Clerk of the Supreme Court of Utah on the same date.

Dated March 23, 1982.

Edward D. Christensen
Attorney Pro Se

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1981

No. 81-6818

EDWARD D. CHRISTENSEN,

Appellant,

-v-

STATE OF UTAH,

Appellee.

ON APPEAL FROM THE SUPREME COURT
OF THE STATE OF UTAH

MOTION OF APPELLEE, THE STATE OF UTAH, TO AFFIRM

EARL F. DORIUS
Assistant Attorney General
236 State Capitol
Salt Lake City, UT 84114
Telephone: 533-7606

Attorney for Appellee,
State of Utah

IN THE SUPREME COURT OF THE UNITED STATES

October Term 1981

No. 81-

EDWARD D. CHRISTENSEN,

Appellant,

-v-

STATE OF UTAH,

Appellee.

ON APPEAL FROM THE SUPREME COURT

OF THE STATE OF UTAH

MOTION TO AFFIRM

Appellee, the State of Utah, pursuant to Rule 16 of the Supreme Court of the United States, moves that the final judgment and decree of the Supreme Court of the State of Utah be affirmed on the grounds that the questions presented are so unsubstantial as not to warrant further argument and portions of the decision are based on an adequate non-federal basis.

STATEMENT

This is a direct appeal from the order of the Utah Supreme Court denying the appellant's petition for a rehearing of its decision entered December 29, 1981.

On December 14, 1980, near Marysvale, County of Piute, State of Utah, appellant received a ticket for driving a vehicle, registered and licensed in Utah, upon the highways of Utah without a valid Utah Safety Inspection sticker as required by Utah Code Annotated, § 41-6-158 (1953), as amended.

The appellant was tried by a jury and convicted in the Piute County Justice Court on March 2, 1981, despite his challenge to the constitutionality of the statute. He was sentenced to six months in jail and a $100 fine. He appealed this conviction to the Sixth Judicial District Court in and for Piute County, State of Utah, where, in a trial de novo, on stipulated facts his challenge to the constitutionality of the statute was once again rejected. The district court affirmed the appellant's conviction but suspended the six-month jail sentence.

The appellant took an appeal from the decision of the district court to the Utah Supreme Court. The Utah Supreme Court affirmed the conviction on December 29, 1981, finding that the statute was constitutional and a valid exercise of the police power to insure safety on the highways of Utah. The appellant's petition for re-hearing was denied on March 2, 1982 and he filed a notice of appeal to this Court on March 23, 1982.

ARGUMENT

The decision of the Utah Supreme Court is plainly correct. The vehicle safety inspection statute which the appellant challenges as being unconstitutional, Utah Code Annotated, § 41-6-158 (1953), as amended (see Appendix A), is a proper exercise of the police powers of the State, as has been consistently recognized by decisions of this Court.

This Court found, in Minneapolis & St. Louis R. Co. v. Beckwith, 129 U.S. 26, 29 (1888), that the Equal Protection clause of the Fourteenth Amendment "does not limit, nor was it designed to limit, the subjects upon which the police power of the State may be exerted." Then as now, the nature and extent of legislation enacted pursuant to the police power depends upon the judgment of the legislature as to the security needed by society.

This Court has also recognized that the police power of the state extends to the regulation of movements of motor vehicles over highways since such movement is attended by constant and serious dangers to the public. Gibons v. Ogden, 9 Wheat. 1, 203 (1824); Hendrick v. Maryland, 235 U.S. 610, 614 (1915); Kane v. New Jersey, 242, U.S. 160 (1916). The only limitations that are imposed upon the exercise of the police power have occurred when the exercise of that power has substantially impaired interstate commerce. See, e.g. Kassel v. Consolidated Freightways Corp., 450 U.S. 662 (1981). The classification used by the state legislature in requiring vehicle inspection stickers is reasonable and does not interfere with interstate commerce. In fact, as noted by the Utah Supreme Court, the classification (every motor vehicle registered in the state or bearing temporary permits on Utah plates) "applies to practically all users of the highways and all residents of the state" (See Appendix B). It is a reasonable exercise of the legislative power of Utah to provide a minimum level of safety for all vehicles which have the highest propensity of use on the highways of Utah; therefore, in light of the lack of any substantial issue, this appeal should be affirmed.

Furthermore, the appellant's second allegation of constitutional error focuses on the Justice Court Judge's action in excluding the jury from arguments on questions of law. Contrary to the appellant's claim, this presents no constitutional issue for review. The Utah Supreme Court correctly and summarily rejected this claim, recognizing that as a matter of procedural law questions of law are for the court and questions of fact are for the jury. Utah Code Annotated, § 77-17-10 (1981 Supp.) (See Appendix C).

Appellee respectfully submits, therefore, that the appellant presents no substantial question for the decision of this Court, and that the judgment and decree of the Utah Supreme Court should be affirmed.

Respectfully submitted this 8th day of June, 1982.

Earl F. Dorius

EARL F. DORIUS
Assistant Attorney General
Counsel for Appellee

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and exact copy of the foregoing Motion, postage prepaid, to Edward D. Christensen, Attorney Pro Se, 387 North 300 East, Richfield, Utah, 84701, this 8th day of June, 1982.

Susan Patton

APPENDIX A

41-6-158. Periodic inspection required — Display of inspection sticker required. (a) The department shall at least once each year require that every motor vehicle registered in this state or bearing temporary permits or Utah plates, except off-highway vehicles, be inspected and that an official certificate of inspection and approval be obtained for each such vehicle. Nothing in this subsection shall be construed to prevent any owner or lessee of a motor vehicle from voluntarily causing the official certificate of inspection number to coincide with the date of registration of such vehicle.

The inspection shall be made and certificate obtained with respect to the mechanism, brakes and equipment of every vehicle designated by the department under this subsection.

The department may establish necessary rules and regulations for the administration and enforcement of this section and may designate any period or periods of time during which an owner of any vehicle subject to this section shall display upon the vehicle a certificate of inspection and approval duly issued for the vehicle either upon the lower right-hand corner of the windshield thereof when required or upon the vehicle in such position as to be visible from the outside.

(b) The department may authorize the acceptance in this state of a certificate of inspection and approval issued in another state having an inspection law similar to that of this state and may extend the time within which a certificate shall be obtained by the resident owner of a vehicle which was not in this state during the time an inspection was required.

(c) It shall be unlawful for any person to drive a motor vehicle registered in this state upon any street or highway without displaying the safety inspection sticker during the time designated by the department.

History: L. 1941, ch. 52, § 143; C. 1943, 57-7-28; L. 1967, ch. 78, § 12; 1967, ch. 96, § 1; 1973, ch. 122, § 1; 1978, ch. 14, § 1; 1979, ch. 262, § 61.

APPENDIX B

IN THE SUPREME COURT OF THE STATE OF UTAH

-----ooOoo-----

State of Utah,
Plaintiff and Respondent,

v.

Edward D. Christensen,
Defendant and Appellant.

No. 17791

F I L E D
December 29, 1981

Geoffrey J. Butler, Clerk

PER CURIAM:

This case originated in a justice of the peace court where defendant was convicted by a jury of the traffic offense of failing to display an inspection sticker on his car.[1] On appeal to the district court, he was again convicted.

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Defendant appeals without the assistance of legal counsel and presents a very articulate argument reflecting considerable perception of the basic concepts of our state and federal constitutions. In so doing, defendant urges that the statute is discriminatory, in that it has the practical effect of punishing Utah residents, while immunizing sister state transient motorists from like penalty.

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Defendant is fair and candid in conceding that the State, his opponent here, insists on using the police power as a shield against his attack. His citation of Richter v. East St. Louis and S. Ry. Co.,[3] to the effect that residents and non-residents enjoy constitutional equality does not destroy the superiority of police power concepts.

Statutes like that involved here, uniformly have been held constitutional, with rare interference by the Fourth and Fourteenth Amendment. A case that arose in Illinois briefly and aptly states as follows:

---

1. In violation of U.C.A., 1953, 41-6-158.
2. 5 U.S. 13 (1803).
3. 20 F.2d 220 (Mo. Dist. Ct. 1927).

> Neither the Fourteenth Amendment to the Federal Constitution nor any provision of the Constitution of this state was designed to interfere with the police power to enact and enforce laws for the protection of the health, peace, safety, morals, or general welfare of the people. [Citations omitted.][4]

No one would venture to ignore a law to make safe and prevent what too often is wholesale slaughter on the highways, simply because a few transients, perhaps in interstate commerce, have no Utah safety stickers on their vehicles. The classification of affected persons is reasonable, and applies to practically all users of the highways and all residents of the state. It would be unreasonable to render the statute void and to deny citizens an irreplaceable insurance policy for their safety on constitutional grounds.[5]

The defendant has not shown in the record any proof that the purpose of the statute is other than for the welfare of the community, or an improper exercise of the police power.

The second contention urged by defendant to the effect it was error to discuss a question of law out of earshot of the jury is without merit since such questions are for the court as are questions of fact for the jury.

Affirmed.

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Stewart, Justice concurs in the result.

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4. City of Evanston v. Wazan, 364 Ill. 198, 4 N.E.2d 78 (1936).
5. State v. Twitchell, 8 Utah 2d 314, 333 P.2d 1075 (1959).

APPENDIX C

77-17-10. Court to determine law; the jury, the facts.—(1) In a jury trial, questions of law are to be determined by the court, questions of fact by the jury.

(2) The jury may find a general verdict which includes questions of law as well as fact but they are bound to follow the law as stated by the court.

History: C. 1953, 77-17-10, enacted by L. 1980, ch. 15, § 2.

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NO. 81-6818

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v.

STATE OF UTAH, Appellees.

ON APPEAL FROM THE

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BRIEF OF APPELLANT IN OPPOSITION TO MOTION OF APPELLEE, TO AFFIRM

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This brief is filed pursuant to Rule 16 (4) of the Rules of the Supreme Court of the United States.

STATEMENT OF THE CASE

The statement of the case is omitted except to correct the following:

The trial was only partly by jury since the jury was not permitted to hear any law except that given by the court, and the court withheld all law favorable to the Appellant.

The trial in District Court was not a trial de novo, it was a stipulation of facts at a regular law and motion day. See Jurisdictional Statement, Appendix C.

QUESTIONS PRESENTED

The substance of the questions presented is whether the rights, privileges and immunities of the citizens of Utah supercede the police power of the state or whether the police power of the state supercedes everything, Federal and State Constitutions, decisions of this Court, oaths of office, due process of law and statistical facts?

ARGUMENTS

THE CONSTITUTIONAL RIGHTS, PRIVILEGES AND IMMUNITIES OF CITIZENS SUPERSEDE THE POLICE POWER OF THE STATES

The Supreme Court of Utah, and the lower courts, clearly erred in ruling that the police power of the state is superior to the privilege of equal protection of the law, as defined by this court, and other protections retained by the citizens.

The Appellees, public employees of Utah, through their attorney, speek from two faces. When they want to get on the public payroll, they take a solemn oath to support the Constitution of the United States and of the State of Utah. Once established on the public payroll, from the second face, they rebel against those same Constitutions by resisting their authority, and the interpretations of this court.

Again, they say that they want safety on the highways and that inspections provide that safety, and from the second face, they don't want all vehicles on the highways inspected. They want the status quo! (some vehicles inspected others not) and the police power to selectively prosecute.

The Appellees would have this court believe that safety inspections are responsible for highway safety. NOT SO! If this were true, there would be no accidents in states having safety inspection programs, and thousands of accidents in states having no safety inspection programs. This, of course, is not the case, there is no significant difference in the accident rates of states having inspection programs and states having none. Also OVER 99 PERCENT OF THE ACCIDENTS IN UTAH, INVOLVING UTAH VEHICLES, ARE IN INSPECTED VEHICLES.

This court knows, and so does the Appellees, that the major causes of accidents on highways are:

1. Driving under the influence of alchohol or drugs.
2. Excess speed for conditions.
3. Failure to yeald the right-of-way.
4. Road conditions.(ice, snow, water, oil, debris and pot-holes on and in highways) strong crosswinds get some large trucks.
5. Driver fatigue. (dozing)

It is then obvious that the true reasons for safety inspections are:

1. Subjugation of the citizens. (opposite of liberty)

2. Business and profit for inspection stations.

3. Revenue from fines, and taxes from inspection stations.

(in this respect this court should take judicial notice of the $100.00 fine taken from the Appellant and the $10.00 fine for the same offense, reported in the Richfield Reaper for May 12, 1982, appended as Exhibit A. The addition can only be a panalty for exercising Appellants right to redress his grievance.

SUMMATION

In summation, the Appellees want:

1. To take false oaths to get on the public payroll.

2. To rebel against provisions of the U. S. and Utah Constitutions and to hold their offices contrary to Section 3 of the Fourteenth Amendment of the U. S. Constitution.

3. To disregard this courts interpretation of the equal protection of the law clause and Article IV, Sec. 2 of the U. S. Constitution and other lower court decisions.

4. To disregard Article I, Sec. 24 of the Constitution of Utah. (uniform operation of laws)

5. To pass laws repugnant to the U. S. and Utah Constitutions.

6. To search effects (vehicles) without probable cause or warrants, contrary to the Fourth Amendment.

7. To discriminate in law enforcement.

8. To practice selective ticketing and prosecutions.

9. To send juries out of the court so they can't hear all of the law.

10. To withhold law beneficial to defendants from the juries.

11. To dictate what the law is to the juries.

12. To fine those who claim constitutional protections ten times that which they fine illegal aliens.

13. To penalize those who exercise their right to redress grievances, without trial on that issue.

14. To have this court reverse or subvert its own precedents.

In short, the Appellees want this court to approve a police state government in Utah. This Court should do no such thing.

CONCLUSION

In conclusion the Appellant respectfully asks this Court to uphold the U. S. and Utah Constitutions and its own rulings on the equal protection of the law clause by ruling that the Utah vehicle inspection statute does command a discriminatory result which is condemned by the Fourteenth Amendment and that it is null and void, that it conflicts with the uniform operation of the laws clause of the Utah Constitution and is likewise null and void.

That all persons within the jurisdiction of the State of Utah are entitled to equal protection from the state, largely because Article IV, Section 2, has from the beginning guarenteed the privileges and immunities of citizens in the several states. The Appellant further asks that this Court reverse his conviction and grant him any further protection of the law that the court may consider just and proper.

Respectfully submitted,

Edward D. Christensen

Edward D. Christensen
Appellant Pro Se

Dated: June 22, 1982

AFFIDAVIT OF MAILING

I hereby certify that a true copy of the foregoing Brief of Appellant in opposition to Motion of Appellee was mailed to the Attorney General of Utah 236 State Capitol, Salt Lake City, Utah on June 22, 1982, and that the original and 39 copies were mailed to the Court on the same date,

Edward D. Christensen

Edward D. Christensen
Appellant Pro Se

RICHFIELD REAPER MAY 12 1982

Action From Area

Courts

Tenth Circuit Court

A preliminary hearing in Tenth Circuit Court is set May 11 for an Elsinore, Utah man, charged with burglary and possession of a controlled substance.

Marcus Taylor, attorney, was appointed temporary public defender for Daniel L. Adams, 25, charged in connection with a May 2 incident at Randy's Auto Clinic. Adams' bail was continued at $1000.

Randall Smith, Mt. Pleasant, charged with checks against insufficient funds, had his case continued to May 11.

Mike Allred, Richfield, charged with two counts sale of a controlled substance, was found not indigent and was refused services of a public defender. Case was continued to May 11 for Allred to secure an attorney.

Harold Dale Morrill, Marysvale, in on a probation matter, told the court, he had paid $200 of a total $500 fine. Fine was to have been paid April 22.

Court accepted the $200 and ordered Morrill to pay the balance by May 14. He is still to serve weekends in jail until balance is paid off. If not paid by that date, then the jail sentence which was suspended, will be imposed.

Wesley Wade Welsh, 200 East 300 North, Richfield, charged with two counts, distribution of a controlled substance for value and one count theft of a Richfield Police fight bar has a preliminary hearing set June 15.

Dale J. Brown, Loa, forfeited $100 bail to the court after failing to appear May 4.

Verlene J. Brown, Loa, and wife of Dale, in on an order to show cause concerning possible revokation of probation, was ordered by the court to pay fines and restitution on checks. She had previously been given to July 1, 1981 to pay off a fine. She was cleared of any probation violation because the insurance company was slow in reimbursing her.

A bench warrant was served May 4 on Farren W. Kanosh, Richfield, for failure to appear for review of a $500 fine.

Calvin Lee Tist, 19, Richfield, who was to pay a $50 fine for speeding, Oct. 28, 1981, but failed to do so and after receiving another ticket for expired registration, Jan. 23, 1982 and failing to appear to either pay bail or set a court date, was fined a total $125 in traffic related fines May 4 and ordered to pay the amount by Aug. 1. A six month jail sentence was suspended on payment of fine.

In civil matters, Marcus Taylor, attorney for Carl Thurgood, plaintiff, Richfield, has been given a bench warrant against DeWayne Macfadden, defendant, Richfield.

Court found no cause of action and $25 for no driver's license. Jail time was suspended upon release to immigration May 8.

Merrall, defendant, Aurora, on a small claims affidavit and order was continued to May 11. Summerall was told to list his creditors to the court. If Summerall's bankrupicy schedule is not listed with the auto parts store as a creditor, the auto parts store will be given the judgement.

Jackie L. Williams, 22, 301 Carpenter, Akron, Ohio and Tony L. Rowe, 22, same address, charged with possession of a stolen credit card and possession of a controlled substance, plead guilty May 4, to attempted possession of marijuana.

Possession of a stolen credit card was dismissed. They were sentenced to 90 days in jail, all of which was suspended, except 14 days. Since the pair had served 14 days in jail, jail credit was given and they were released. No fine was imposed. They were put on probation to the court.

County Jail

Register of Arrests

County Jail arrest register

Clyde Coates Jr. 19, Gunnison, arrested for DUI May 1 by Salina Police was released on bail the same day.

Brent M. Merrell, 26, Fremont, arrested for DUI May 2 in Fremont by Utah Highway Patrol Roger Taylor, was released on his own recognisance May 3.

Mario H.M. Tarnsen, 34, Salt Lake City, arrested May 4 for illegal alien, no safety inspection, no driver's license, possession of marijuana, appeared before South Precinct Justice Court Judge Reed Blomquist and was fined $150, plus 30 days for possession of marijuana, was fined $50 for no inspection and $25 for no driver's license. Jail time was suspended upon release to immigration May 8.

Police Docket

A traffic accident, dog bite, sexual abuse case and vandalism were the main items on the police docket for April 30-May 6.

April 30, a juvenile was reported missing and had not returned home to Venice after school let out that evening. The youth was found Saturday in Richfield at his grandmother's home.

Sherrie Smith, Arizona, fell off the grandstand bleachers at Sevier County fairgrounds May 1, and was transported to Sevier Valley Hospital.

Kip Nielsen, Richfield, reported his vehicle had been vandalized, in which someone had written obscene words on his pickup with wax.

A forcible sexual abuse case was reported May 3 involving a four year old victim and a 14 year old Richfield boy. The 14 year old was referred to

NOTE →

Exhibit A